

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Revise  
Commission General Order Number 95 Pursuant  
to D.05-01-030.

Rulemaking 05-02-023  
(Filed February 24, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING DENYING  
MOTION TO EXCLUDE EVIDENCE REGARDING POLE-TOP ANTENNAS**

**1. Summary**

Eight parties<sup>1</sup> (the Moving Parties) move for an order removing pole-top antenna construction issues from this proceeding since those issues are being addressed by the General Order (GO) 95/128 Rules Committee (Rules Committee). The motion is opposed by the Wireless Group<sup>2</sup> and by the California Cable & Telecommunications Association (CCTA). Pole-top installations refer to the installation of wireless antenna above supply lines on utility poles. For the reasons explained below, the motion is denied.

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<sup>1</sup> Moving parties are the Commission's Consumer Protection and Safety Division, Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, the International Brotherhood of Electrical Workers 1245, California Municipal Utilities Association, City of Anaheim and the Northern California Power Agency.

<sup>2</sup> The Wireless Group is comprised of Cingular Wireless, Crown Castle, NextG, Sprint Nextel, T-Mobile and Verizon Wireless.

## **2. Positions of the Parties**

The Rules Committee is comprised of California supply and communications professionals knowledgeable in the application of GO 95 and GO 128, and which meets regularly to consider and make recommendations on these technical rules. The Rules Committee Executive Board, on December 19, 2005, notified the Commission that its members “engaged in lengthy and often vigorous discussions” on pole-top issues at meetings held on December 6-8, 2005, and added that “we expect continued progress in the refinement of the preliminary drafts and the development of additional rule change proposals at our April 2006 meetings.” (Rules Committee Letter, December 19, 2005, to Commissioner Brown and ALJ Walker.)

The Moving Parties contend that development of rules addressing pole-top antenna construction is a substantive undertaking involving multiple disciplines and complex safety and technical issues that should be examined by technical professionals in order that proposed rules are safe and workable. The Moving Parties argue that the Rules Committee is a more appropriate forum for dealing with these issues.

While the Wireless Group agrees that the Rules Committee can and should play a role in the modifications to GO 95 rules necessary for pole-top installations, it argues that committee recommendations require a consensus that has not developed to date. The Wireless Group argues that Commission action is necessary if resolution of pole-top installation rules is to take place anytime soon. CCTA agrees, stating:

The need for regulatory certainty regarding pole-top attachment rules is at the heart of CCTA’s interest in this matter. CCTA is an industry association of California cable service providers whose members serve 1,350 communities and provide service to almost

eight million California homes. [Cable company infrastructure expenditures in 2005] amounted to an estimated one billion dollars with the goal of bringing advanced broadband technologies – including wireless broadband technologies – to Californians. (CCTA Response, at 4-5.)

### **3. Discussion**

It would be premature to defer consideration of pole-top issues to the Rules Committee prior to the hearings in this proceeding that are scheduled to take place beginning at 10 a.m. Tuesday, February 7, and continuing through Friday, February 10, 2006. The Scoping Memo and Ruling of Assigned Commissioner Brown directs that pole-top installations be one of the subjects considered in this proceeding. (See, Scoping Memo, June 7, 2005, at 3.) Several parties have submitted written testimony and reply testimony dealing with pole-top installations.

The pole-top antenna issues apparently were not considered at any length in the workshops conducted as part of this proceeding. After hearings, the Commission may well decide that a thorough vetting of pole-top antenna rules by the Rules Committee is a prudent step before the matter is presented to the Commission by way of unopposed Resolution or a subsequent proceeding. In that respect, the Commission will welcome testimony at hearing of a representative of the Rules Committee on the progress and direction of that group's deliberations.

**IT IS RULED** that the Motion to Exclude Evidence Regarding Pole-Top Antenna Construction Rules from Rulemaking 05-02-023 and Evidentiary Hearing is denied.

Dated January 9, 2006, at San Francisco, California.

/s/ GLEN WALKER  
Glen Walker  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Denying Motion to Exclude Evidence Regarding Pole-Top Antennas on all parties of record in this proceeding or their attorneys of record.

Dated January 9, 2006, at San Francisco, California.

/s/ ELIZABETH LEWIS  
Elizabeth Lewis

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.